

E-FILED on 10/31/2011

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

CHANG MIN LU and LI FEN LEE, on behalf
of themselves and all others similarly situated,

Plaintiffs,

v.

PACIFIC RIM ENTERPRISES, FANNY
KING, and JIM SIEVERS,

Defendants.

No. 09-cv-06058 RMW

ORDER REQUESTING ADDITIONAL
BRIEFING REGARDING SETTLEMENT

A stipulation for approval of a proposed settlement was heard by this court on October 28, 2011. At the hearing, the court discussed whether the proposed settlement could properly be filed under seal. After the parties indicated that they would withdraw the request to file the proposed settlement under seal, the court preliminarily indicated that it would approve the proposed settlement. However, the court has since examined the proposed settlement agreement more closely and has an additional concern. Plaintiff Chang Min Lu purports to release any and all claims arising under PAGA on behalf of herself and all others similarly situated, although the proposed settlement agreement does not purport to prevent any employee who is not a party to the complaint from bringing valid individual claims under other provisions of the Labor Code for wages and any statutory claims. Rule 23(e) of the Federal Rules of Civil Procedure requires that the settlement of a

1 class action be approved by the court, and only after the court has directed notice to all class
2 members bound by the proposed settlement and held a hearing to determine whether the proposal is
3 fair, reasonable, and adequate to the class. The court will require the parties to submit additional
4 briefing demonstrating that the court need not apply Rule 23(e) to the settlement of PAGA claims on
5 behalf of a class. Approval of the stipulated settlement is denied pending additional briefing.

6
7 DATED: October 31, 2011


RONALD M. WHYTE
United States District Judge

United States District Court
For the Northern District of California